

APPENDIX 13-7
DEFENDANTS' PROPOSED VERDICT FORM

Defendants' Proposed Verdict Form

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

**KRAFT FOODS GLOBAL, INC., THE)
KELLOGG COMPANY, GENERAL)
MILLS, INC., and NESTLÉ USA, INC.,)
Plaintiffs,)**

No. 1:11-cv-08808

v.)

Judge Seeger

**UNITED EGG PRODUCERS, INC.,)
UNITED STATES EGG MARKETERS,)
INC., CAL-MAINE FOODS, INC., and)
ROSE ACRE FARMS, INC.)
Defendants.)**

VERDICT FORM

Your answer to each question must be unanimous.

1. Do you find that there was a conspiracy to restrict the supply of eggs consisting of (1) the United Egg Producers (UEP) Certified Program, (2) recommended short-term supply measures, and (3) United States Egg Marketers (USEM) exports?

YES _____ NO _____

If you answered “YES” to Question 1, proceed to Question 2 on the next page. If you answered “NO” to Question 1, do not answer any further questions, have your foreperson sign the last page of the verdict sheet, and notify the courtroom deputy that you have completed your deliberations.

2. Do you find that the following companies participated in the conspiracy to restrict supply referenced in Question 1?

- (a) Cal Maine Foods: YES _____ NO _____
- (b) Rose Acre Farms: YES _____ NO _____
- (c) United Egg Producers (UEP): YES _____ NO _____
- (d) United States Egg Marketers (USEM): YES _____ NO _____
- (e) Michael Foods, Inc.: YES _____ NO _____
- (f) Moark: YES _____ NO _____
- (g) Wabash Valley: YES _____ NO _____

If you answered “YES” to Question 1 and either Question 2(a), 2(b), 2(c) or 2(d), proceed to Question 3 on the next page. If you answered “NO” to Question 2(a), 2(b), 2(c) and 2(d), do not answer any further questions, have your foreperson sign the last page of the verdict sheet, and notify the courtroom deputy that you have completed your deliberations.

3. For the conspiracy referenced in Question 1, state the time period that you found the conspiracy existed:

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Year began		Year ended

4. Do you find that the Plaintiffs proved the existence of one relevant product market consisting of all shell eggs and all egg products?

YES _____ NO _____

If you answered “YES” to Question 4, proceed to Question 5 on the next page. If you answered “NO” Question 4, do not answer any further questions, have your foreperson sign the last page of the verdict sheet, and notify the courtroom deputy that you have completed your deliberations.

5. Do you find that the conspiracy imposed an unreasonable restraint on trade in a relevant market that consists of all shell eggs and all egg products?

YES _____ NO _____

If you answered “YES” to Question 5, proceed to Question 6 on the next page. If you answered “NO” to Question 5, do not answer any further questions, have your foreperson sign the last page of the verdict sheet, and notify the courtroom deputy that you have completed your deliberations.

6. Do you find that the conspiracy restricted the supply of eggs and that the restriction caused an increase in the price of egg products, which thereby injured:

(a) KRAFT FOODS GLOBAL, INC.? YES _____ NO _____

(b) THE KELLOGG COMPANY? YES _____ NO _____

(c) GENERAL MILLS, INC.? YES _____ NO _____

(d) NESTLÉ USA, INC.? YES _____ NO _____

If you answered all of Question 6, your deliberations on issues of liability are now complete. Please sign the line on the last page and advise the courtroom deputy that the jury has reached a unanimous verdict.

JURY FOREPERSON

DATE

Plaintiffs' Position

Plaintiffs object to the Defendants' Proposed Verdict form for the following reasons, many of which are explained in greater detail in Plaintiffs' objections to the Defendants' Proposed Jury Instructions. To avoid duplication, Plaintiffs incorporate those objections, and summarize them briefly:

- Defendants' Verdict Form is unnecessarily complex. It does not assist the jury but will confuse the jury. Plaintiffs' Verdict Form is much simpler and accurately conveys the questions for this jury to decide based on the conspiracy Plaintiffs alleged and will prove.
- Questions 1 and 2 are improper because they misstate the conspiracy Plaintiffs alleged and will prove. *See* Plaintiffs' Objections to Defendants' Proposed Jury Instructions.
- Question 3 is not needed. There is no requirement to identify the time period of the conspiracy in a jury interrogatory and asking this question serves no legitimate purpose, other than to attempt to prejudice the Plaintiffs before the jury is able to hear evidence of damages.
- Question 4 is not needed. There is no requirement to identify the relevant market in a per se liability case, which is how this case should be tried. *See* Plaintiffs' Objections to Defendants' Proposed Jury Instructions. Even if the case is tried on rule of reason theory, there is no requirement to identify the relevant market in a jury interrogatory and asking this question serves no legitimate purpose. Its inclusion draws attention to a single issue and will confuse the jury.
- Question 5 is not needed. There is no requirement that a restraint of trade be found to be unreasonable in a per se liability case, which is how this case should be tried. *See* Plaintiffs' Objections to Defendants' Proposed Jury Instructions. In the event the case is tried as a rule of reason case, the bracketed portions of Question 1 in Plaintiffs' Proposed Verdict Form addresses the relevant question under a rule of reason theory of liability in a simpler fashion.
- Question 6 is unnecessarily complex. Consistent with the instructions, the jury should simply be asked whether the Plaintiffs were injured, as stated in Plaintiffs' Proposed Verdict Form.

Plaintiffs request the Court to use Plaintiffs' Verdict Form which accurately and concisely guides the jury through the issues the jury needs to decide.